HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No.7248 of 2007

PETITIONER S.P.Guddhey, son of Sri Pundalik Rao Guddhey, aged about 48 years, resident of Tilda, working as Senior Agriculture Development Officer, Development Division, Tilda, District Raipur, Chhattisgarh

Versus

RESPONDENTS

1. State of Chhattisgarh, Through : Secretary, Agriculture Department, D.K.S. Bhawan, Raipur(CG)
2. The Upper Secretary, Agriculture Department, DKS Bhawan, Raipur(CG)
3. The Director, Agriculture, DKS Bhawan, Raipur(CG)
4. S.S.Baghel, Senior Agriculture Development Officer, Development Division, Bhilaigadh, District Raipur(CG)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri T.K. Tiwari, counsel for the petitioner.

Shri Satish Gupta, Dy. Government Advocate for the State on advance copy.

ORAL ORDER
(07.12.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Senior Agriculture Development Officer at Tilda, District Raipur, has been transferred to Bhilaigadh, District Raipur and respondent No.4, who was posted at Bhilaigadh, has been brought to the place of the petitioner.

Learned counsel for the petitioner argues that firstly by order dated 25.10.2007, respondent No.4 was transferred from Bhilaigadh to Tilda, but there was no order for transfer of the petitioner and when respondent No.4 was not allowed to join at Tilda, then later on, the order of transfer of the petitioner from Tilda to Bhilaigadh was passed on 30.11.2007(Annexure P-6), therefore the action of the Government

appears to be malafide. He also argues that respondent No.4 has been brought to Tilda on his own request and the petitioner has been sent from Tilda to adjust respondent No.4.

So far as the ground of malafide is concerned, on the basis of the pleadings as also the two orders passed in this regard, it does not appear that there was any malafide while passing the transfer order of the petitioner dated 30.11.2007. Administratively, some irregularities may be there that respondent No.4 was brought to the place of the petitioner, but there was no order for the petitioner and subsequently, the order for the petitioner was passed and the petitioner was sent to the place of respondent No.4.

As far as the ground regarding adjusting respondent No.4 is concerned, it does not appear from the record that respondent No.4 was transferred on his own request and the petitioner is being sent to adjust respondent No.4 because in the transfer order dated 25.10.2007 itself, it has been mentioned that respondent No.4 is being transferred on administrative grounds. Hence, prima facie, it does not appear that respondent No.4 was brought on his own request and the petitioner was transferred to adjust respondent No.4.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous considerations or is against any statutory Rule or the Act, it cannot be interfered with by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, or extraneous considerations or that the order has been passed against any Statutory Rule or the Act.

I do not find any reason to interfere with the order of transfer of the petitioner.

The petition has no merits. The same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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